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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/859,665	05/18/2001	Robert Cosmo Di Luccio	KCC-15,512	3343

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 03/17/2004

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/859,665

Applicant(s)

LUCCIO ET AL.

Examiner

C. Lynne Anderson

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-29, 31-34 and 36-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-25, 27-29, 31-34, 36-42, 44 and 46-48 is/are rejected.
- 7) ☒ Claim(s) 26, 43, 45, 49 and 50 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>16</u> . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 23 December 2003 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 8-25, 27-29, 31-34, 36-41, 44, and 46 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al. (5,990,377).

Chen discloses an absorbent article having improved management of viscoelastic fluid, the absorbent article comprising a treatment chemistry selected from the group of water-soluble gelling agents which crosslink protein, as described in

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column 36, lines 25-28. In use, the article of Chen provides a method for treating the viscoelastic fluid.

With respect to claim 2, the absorbent article is a sanitary napkin, as disclosed in column 1, lines 9-11, and therefore the viscoelastic fluids treated by the article are menses.

With respect to claim 3, the treatment chemistry is comprised in a through-air-dried web, and therefore is dried and in solid form.

With respect to claim 4, the treatment chemistry is uniformly disposed on the surface or the interior of the absorbent article, as disclosed in column 36, lines 15-19.

With respect to claim 5, the absorbent article comprises a cover sheet 1 and an absorbent layer 5, as shown in figure 5. The absorbent article is disclosed in column 1, lines 9-11, as being a sanitary napkin, which inherently comprises a backsheet. The treatment chemistry is disposed on the cover sheet.

With respect to claim 6, the treatment chemistry is disposed along the periphery of the article, as disclosed in column 36, lines 15-19.

With respect to claim 8, the cover sheet 1 comprises a nonwoven web material, as disclosed in column 28, lines 55-56.

With respect to claim 9, the nonwoven web comprises polymeric fibers, as disclosed in column 29, lines 43-44, and the treatment chemistry is disposed within the web.

With respect to claim 10, the treatment chemistry is disposed in the cover sheet so as to form a gradient, as disclosed in column 36, lines 15-19.

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With respect to claim 11, the treatment chemistry comprises a water-soluble gelling agent, and a superabsorbent is disposed in the absorbent article, as disclosed in column 36, lines 7-9.

With respect to claim 12, the article comprises a nonwoven web material that is airlaid, as disclosed in column 28, lines 55-56.

With respect to claim 13, the nonwoven web comprises bicomponent fibers, as disclosed in column 38, lines 64-66, and the treatment chemistry is disposed in within the web, and therefore within one segment of the fibers.

With respect to claim 14, the nonwoven material is part of a laminate, as shown in figure 5.

With respect to claim 15, Chen discloses a nonwoven web, as described in column 28, lines 55-56.

With respect to claim 16, the treatment chemistry is comprised in a through-air-dried web, and therefore is dried and in solid form.

With respect to claim 17, the treatment chemistry is uniformly disposed on the surface or the interior of the absorbent article, as disclosed in column 36, lines 15-19.

With respect to claim 18, the nonwoven web comprises a plurality of nonwoven layers, as shown in figure 5.

With respect to claim 19, the treatment chemistry is dispersed on nonwoven web 1, which is less than all of the layers.

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With respect to claim 20, the treatment chemistry is non-homogenously disposed on the surface or the interior of the absorbent article, as disclosed in column 36, lines 15-19.

With respect to claim 21, the absorbent article is a sanitary napkin, as disclosed in column 1, lines 9-11, and therefore the viscoelastic fluids treated by the article are menses.

With respect to claim 22, the treatment chemistry is disposed within the nonwoven web, and therefore is disposed within the interior of the polymeric fibers.

With respect to claim 23, the article comprises a nonwoven web material that is airlaid, as disclosed in column 28, lines 55-56.

With respect to claim 24, the treatment chemistry comprises a water-soluble gelling agent, and a superabsorbent is disposed in the absorbent article, as disclosed in column 36, lines 7-9.

With respect to claim 25, the treatment chemistry comprises a water-soluble gelling agent, chitosan.

With respect to claim 27, Chen discloses an absorbent article comprises a fluid permeable cover 2 and an absorbent layer 1, as shown in figure 1. The absorbent article is disclosed in column 1, lines 9-11, as being a sanitary napkin, which inherently comprises a baffle.

With respect to claim 28, a superabsorbent is disposed in the absorbent article, as disclosed in column 36, lines 7-9.

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With respect to claim 29, the treatment chemistry comprises a water-soluble gelling agent, chitosan.

With respect to claim 31, the article comprises a nonwoven web material that is airlaid, as disclosed in column 28, lines 55-56.

With respect to claim 32, Chen discloses a nonwoven material treated with a treatment chemistry, the treatment chemistry being a water-soluble gelling agent which crosslinks protein.

With respect to claim 33, a superabsorbent is disposed in the absorbent article, as disclosed in column 36, lines 7-9.

With respect to claim 34, the treatment chemistry comprises a water-soluble gelling agent, chitosan.

With respect to claim 36, the nonwoven web comprises polymeric fibers, as disclosed in column 29, lines 43-44, and the treatment chemistry is disposed within the web.

With respect to claim 37, the nonwoven web is airlaid, as disclosed in column 28, lines 55-56.

With respect to claim 38, the nonwoven material comprises a plurality of layers, as shown in figure 5.

With respect to claim 39, the treatment chemistry is dispersed in nonwoven layer 1, as disclosed in column 36, lines 15-19.

With respect to claim 40, the treatment chemistry is dispersed non-homogenously within the nonwoven web, as disclosed in column 36, lines 15-19.

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With respect to claim 41, the treatment chemistry is dispersed within the nonwoven web, and therefore is disposed on a surface of the polymeric fibers.

With respect to claim 42, the nonwoven web comprises bicomponent fibers, as disclosed in column 38, lines 64-66, and the treatment chemistry is disposed in within the web, and therefore within a segment of the fibers

With respect to claim 44, the treatment chemistry is applied to the opposed edges, ends, and the center region, as disclosed in column 36, lines 15-19.

With respect to claim 46, the treatment chemistry is disposed on the fluid permeable cover.

Claims 1-6, 8-25, 27-29, 31-34, 36-44, and 46-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimomura et al. (4,959,060).

Shimomura discloses an absorbent article having improved management of viscoelastic fluid, the absorbent article, as described in column 1, lines 18-19, comprising a treatment chemistry selected from the group of mucolytic agents, as described in column 3, lines 5-6 and 15. In use, the article of Shimomura provides a method for treating the viscoelastic fluid.

With respect to claim 2, the absorbent article is a sanitary napkin, as disclosed in column 1, line 19, and therefore the viscoelastic fluids treated by the article are menses.

With respect to claim 3, the treatment chemistry is in the form of solid particles, as disclosed in column 4, lines 41-42.

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With respect to claim 4, the treatment chemistry is uniformly dispersed on the absorbent layer, or interior, of the absorbent article, as disclosed in column 4, lines 16-19.

With respect to claim 5, the absorbent article is a sanitary napkin, which inherently comprises a cover sheet, a backsheet, and an absorbent layer. The treatment chemistry is disposed on the absorbent layer.

With respect to claim 6, the treatment chemistry is disposed throughout the absorbent layer, and therefore is disposed along peripheral regions of the layer.

With respect to claim 8, the absorbent layer comprises a nonwoven material, as disclosed in column 2, lines 57-61.

With respect to claim 9, the nonwoven material comprises polymeric fibers, as disclosed in column 2, lines 53-57.

With respect to claim 10, the treatment chemistry is disposed in the absorbent layer, and therefore forms a gradient within the absorbent article.

With respect to claim 12, the nonwoven material is a fibrous web, as disclosed in column 2, lines 57-61.

With respect to claim 15, Shimomura discloses a nonwoven web material in column 2, lines 57-61. The nonwoven web material comprises a treatment chemistry in the form of a mucolytic agent, as disclosed in column 3, lines 5-6 and 15, which comes into contact with viscoelastic fluid.

With respect to claim 16, the treatment chemistry is in the form of solid particles, as disclosed in column 4, lines 41-42.

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With respect to claim 17, the treatment chemistry is uniformly distributed within the nonwoven web material.

With respect to claim 18, the nonwoven web material may comprise more than one layer, as disclosed in column 2, lines 14-15.

With respect to claim 19, the treatment chemistry is disposed in all nonwoven web material.

With respect to claim 21, the nonwoven web material is comprised in a sanitary napkin, as disclosed in column 1, line 19, and therefore the viscoelastic fluids treated by the web are menses.

With respect to claim 22, the treatment chemistry is disposed within the nonwoven web, and therefore is disposed within the interior of the polymeric fibers.

With respect to claim 23, the nonwoven web material is airlaid, as disclosed in column 4, lines 67-68.

With respect to claim 27, Shimomura discloses an absorbent article in the form of a sanitary napkin, as described in column 1, lines 18-19, which therefore comprises a fluid permeable cover, a fluid impervious baffle, and an absorbent layer. The absorbent layer comprises a treatment chemistry in the form of a mucolytic agent, as disclosed in column 3, lines 5-6 and 15.

With respect to claim 28, the absorbent layer comprises a superabsorbent, as disclosed in column 2, lines 31-46.

With respect to claim 31, the absorbent layer is a nonwoven, as disclosed in column 2, lines 57-61.

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With respect to claim 32, Shimomura discloses an absorbent article comprising a nonwoven material treated with a treatment chemistry, the treatment chemistry being a mucolytic agent, as described in column 3, lines 5-6 and 15.

With respect to claim 33, a superabsorbent is disposed in the nonwoven material, as disclosed in column 2, lines 31-46.

With respect to claim 36, the nonwoven material comprises polymeric fibers, as disclosed in column 2, lines 53-57, and the treatment chemistry is disposed within the material.

With respect to claim 37, the nonwoven material is airlaid, as disclosed in column 4, lines 67-68.

With respect to claim 38, the nonwoven material may comprise more than one layer, as disclosed in column 2, lines 14-15.

With respect to claim 39, the treatment chemistry is disposed on the layers.

With respect to claim 41, the treatment chemistry is disposed on the surface of the polymeric fibers, as disclosed in column 4, lines 16-34.

With respect to claim 43, the treatment chemistry is a mucolytic agent, cysteine.

With respect to claim 44, the treatment chemistry is applied to the edges and center of the absorbent layer.

With respect to claim 47 and 48, the treatment chemistry is applied to the entire absorbent layer, and therefore is applied to the peripheral region and the center region of the absorbent layer, the peripheral region comprising the opposed ends and edges.

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Allowable Subject Matter

Claims 26, 43, 45, 49, and 50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-6, 8-25, 27-42, 44, and 46-48 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 5,428,081 and 5,506,035 pertain to absorbent articles comprising lysing agents. U.S. Patent 6,350,711 pertains to an absorbent article comprising an agglutinating agent. U.S. Patent 5,759,569 pertains to an absorbent article comprising a water soluble gelling agent.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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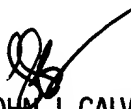
Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 3058-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CWA
cla

March 5, 2004


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